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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
October 17, 1994

ADMINISTRATIVE LETTER 1994-8

TO: **All Insurers, Health Services Plans, and Health Maintenance Organizations licensed to write Accident and Sickness Insurance in Virginia**

RE: **Freedom of choice requirements - Pharmacies and Ancillary Service Providers**

Chapter No. 963 of the 1994 Acts of the General Assembly of Virginia (1994 House Bill 840), took effect on July 1, 1994. The bill created six (6) new statutes, designated by the Virginia Code Commission as Sections 38.2-3407.7, 38.2-3407.8, 38.2-4209.1, 38.2-4209.2, 38.2-4312.1, and 38.2-4312.2 of the Code of Virginia, as amended. These new requirements, which are imposed upon insurers issuing "preferred provider" policies or contracts and upon health maintenance organizations, relate to coverage for services rendered and products furnished by out-of-network pharmacies and ancillary service providers.

It has come to my attention that several issues have arisen regarding the interpretation of certain provisions of this legislation. The following is an explanation of how the Bureau of Insurance intends to administer certain requirements found in the new statutes listed above.

It is our position that each of these provisions prohibits an insurer or health maintenance organization from amending its contracts to provide that claimants obtaining services from out-of-network pharmacies or ancillary service providers must pay for the services and then seek reimbursement from the insurer or health maintenance organization, unless this same condition is imposed upon claimants utilizing the services of in-network pharmacists or ancillary service providers. Additionally, if information regarding coverage is available to in-network providers, such information must also be made available to out-of-network providers in the same or substantially similar manner.

All six statutes cited above also contain the following provision:

> This right of selection extends to and includes [pharmacies or ancillary service providers] that are [non preferred or nonparticipating] providers and that agree to accept reimbursement for their services at rates applicable to [pharmacies or ancillary service providers] that are [preferred or participating] providers. (emphasis added)

It is our position that affected insurers and health maintenance organizations must maintain records of written agreements with out-of-network pharmacies and ancillary service providers that have agreed to accept the rates applicable to preferred or participating providers. Any reference by the insurer or health maintenance organization to the possibility of a pharmacy or ancillary service provider billing the insured for the difference between the network rates and those charged must clearly state that the insured can verify in advance of a purchase that the provider in question has entered into an agreement to accept the network rate as payment in full to avoid additional charges. This verification must be provided by the insurer or health maintenance organization providing coverage.

This letter serves as notice of our intention to withdraw approval, pursuant to § 38.2-316 of the Code of Virginia, as amended, of any forms of which we become aware that do not comply in all respects with the provisions of §§ 38.2-3407.7, 38.2-3407.8, 38.2-4209.1, 38.2-4209.2, 38.2-4312.1, and 38.2-4312.2 of the Code of Virginia, as amended. **Insurers and health maintenance organizations are instructed to review their forms immediately and file amendments, within 45 days of the date of this letter, for the purpose of bringing any non-complying forms into compliance with the statutes discussed herein.** Subsequently, any forms brought to our attention that do not comply will have their approval withdrawn, and the Bureau will consider initiation of any other disciplinary proceedings deemed

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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

November 7, 1994

ADMINISTRATIVE LETTER 1994-9

TO: **All Insurers Licensed to Market Credit Life Insurance and Credit Accident and Sickness Insurance in Virginia**

RE: **I. Filing of Experience Reports and Adjustment of Prima Facie Rates**
II. Filing of Premium Rates and Refund Formulas

I. Filing of Experience Reports and Adjustment of Prima Facie Rates

COMPLETION OF LINE 1.G. OF THE CREDIT EXPERIENCE EXHIBIT

Administrative Letter 1992-18, dated August 31, 1992, advised insurers to complete Line 1.G. in Parts 1 and 2 of the Credit Experience Exhibit based upon the prima facie rates set forth in that letter until instructed otherwise by the Virginia State Corporation Commission (hereinafter referred to as the Commission).

Insurers should change the method of completing Line 1.G. of the Credit Experience Exhibit for reporting business for 1994 and for all future years until instructed otherwise as follows. Line 1.G. in Parts 1 and 2 labeled, "Earned Premium at Prima Facie Rates" on the Credit Insurance Experience Exhibit for direct business in the Commonwealth of Virginia should be completed based on the prima facie rates in effect December 31st of the reporting year, as set forth in the NAIC instructions.